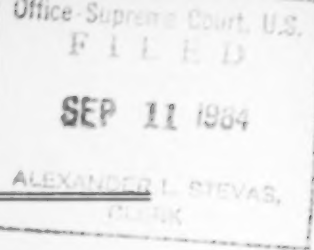


No. 84-171



**In the  
Supreme Court of the United States**

OCTOBER TERM, 1984

MANUEL KRAMER,  
PETITIONER,

v.

HON. JOSEPH S. MITCHELL et al.,  
RESPONDENTS.

**PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT**

**PETITIONER'S REPLY BRIEF**

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**I. Purpose of Reply Brief**

The RESPONDENTS' BRIEF IN OPPOSITION is clearly a devious attempt by the respondents to:

- a.) characterize<sup>1</sup> your petitioner as a disgruntled crank in order to discredit his credibility;

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<sup>1</sup> Note respondents' reference to "divorce action", *Id.* at 2; "judicial odyssey", *Id.* at 5-6; "merely a sham to relitigate", *Id.* at 10. It is a misstatement of fact that the instant action arose from a divorce action. Mr. Kramer was granted a divorce from his wife on December 14, 1973, on the grounds that she was found to be "cruel and abusive". The proceedings in the Middlesex Family Court, which were the roots of the instant action, concerned complaints for modification of an earlier court order.

- b.) create a subliminal illusion, by repetitive use of the word "relitigate", *Id.* at 1, 8, 9, and twice at 10, that your petitioner has been given a full and fair opportunity for judicial resolution of his claims; and,
- c.) slough off the "gravity and general importance", *Id.* at 6, of allegations of a conspiracy by state judges to deny federally protected rights in order to cover up unconstitutional and oppressive practices by the other officers of the courts of the Commonwealth.

This reply brief is submitted to rebut these arguments.

## II. Arguments

### A. PETITIONER'S CLAIMS IN INSTANT ACTION REMAIN UNCONTROVERTED.

Case law requires the court to consider only the claims in the Complaint as admitted and true when ruling on a motion to dismiss (see *Petition for Writ of Certiorari*, No. 84-171, at 12). If the state defendants had wished to impeach the veracity of your petitioner's claims they should have answered and denied them pursuant to Fed. R. Civ. Proc., Rule 12(a) of pled counterclaims pursuant to Rule 13 and allowed an impartial trier of facts to determine the truth. The appalling lack of contested facts (including those in petitioner's state civil rights action) that can be presented to this Court for review attests to respondents, wilful intent to suppress and cover up all traces of evidence of their shameful deeds.

Your petitioner contends that any claims by your respondents reflecting on his character or on his intent should be judged by a trier of facts and should not be presented to this Court as unsubstantiated allegations to discredit his credibility.

## B. PETITIONER'S CLAIMS HAVE NEVER BEEN LITIGATED.

Although the word "relitigate", used repetitively by your respondents, does not appear in *Black's Law Dictionary, Fifth Edition*, the word "litigate" does, and is defined at 841, in part, as follows:

To bring into or engage in litigation; the act of carrying on a suit in a law court; a judicial contest; hence, any controversy that must be decided upon *evidence*. To make the subject of a lawsuit; to contest in law; to prosecute or defend by pleadings, *evidence, and debate* in a court. (emphasis added).

The respondents' attempted characterization of the instant action as a sham to "relitigate" should fail since it is most difficult to understand how an action can be "relitigated" if it was never "litigated" in the first place.

## C. THE RIGHTS CLAIMED BY PETITIONER ARE BASIC TO UNITED STATES CONSTITUTIONAL GUARANTEES.

Your respondents' argument that "the instant petition therefore does not raise any 'special or important' issues that warrant certiorari review" (RESPONDENTS' BRIEF IN OPPOSITION at 7) should be viewed in light of a background of rights included by the framers in the United States Constitution and the laws made in pursuance thereof. A basic right for which the American Revolution was fought and from which the Constitution evolved is clearly stated in the DECLARATION OF INDEPENDENCE as follows:

The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

. . . .

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

.....

He has combined with others to subject us to jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their acts of pretended Legislation:

.....

*For depriving us in many cases, of the benefits of Trial by Jury:*

.....

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define Tyrant, is unfit to be the ruler of a free people. (emphasis added).

If your respondents can argue that your petitioner's claims are not of such gravity and general importance to warrant review, then they also might argue that the signers of the DECLARATION OF INDEPENDENCE were merely unhappy litigants in King George's Court.

Respectfully submitted,

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